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40 CFR Ch. I (7–1–04 Edition)

Agreement may not override the Memorandum of Agreement.

NOTE: Detailed program priorities and specific arrangements for EPA support of the State program will change and are therefore more appropriately negotiated in the context of annual agreements rather than in the MOA. However, it may still be appropriate to specify in the MOA the basis for such detailed agreements, e.g., a provision in the MOA specifying that EPA will select facilities in the State for inspection annually as part of the State/EPA agreement.

§ 271.9 Requirements for identification and listing of hazardous wastes.

(a) The State program must control all the hazardous wastes controlled under 40 CFR part 261 and must adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 CFR part 261.

(b) The State is not required to have a delisting mechanism. A State may receive authorization for delisting if the State regulations for delisting decisions are equivalent to § 260.20(b) and § 260.22, and the State provides public notice and opportunity for comment before granting or denying delisting requests.

[51 FR 33721, Sept. 22, 1986]

§ 271.10 Requirements for generators of hazardous wastes.

(a) The State program must cover all generators covered by 40 CFR part 262. States must require new generators to contact the State and obtain an EPA identification number before they perform any activity subject to regulation under the approved State hazardous waste program.

(b) The State shall have authority to require and shall require all generators to comply with reporting and record-keeping requirements equivalent to those under 40 CFR 262.40 and 262.41. States must require that generators keep these records at least 3 years.

(c) The State program must require that generators who accumulate hazardous wastes for short periods of time comply with requirements that are equivalent to the requirements for accumulating hazardous wastes for short periods of time under 40 CFR 262.34.

(d) The State program must require that generators comply with require-

ments that are equivalent to the requirements for the packaging, labeling, marking, and placarding of hazardous waste under 40 CFR 262.30 to 262.33, and are consistent with relevant DOT regulations under 49 CFR parts 172, 173, 178 and 179.

(e) The State program shall provide requirements respecting international shipments which are equivalent to those at 40 CFR part 262 subparts E and F, except that:

(1) Advance notification, annual reports and exception reports in accordance with 40 CFR 262.53, 262.55 and 262.56 shall be filed with the Administrator; States may require that copies of the documents referenced also be filed with the State Director; and

(2) The Administrator will notify foreign countries of intended exports in conjunction with the Department of State and primary exporters of foreign countries' responses in accordance with 40 CFR 262.53.

NOTE: Such notices shall be mailed to the Office of Waste Programs Enforcement, RCRA Enforcement Division (OS-520), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(f) The State must require that all generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site:

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the federal program. The manifest system must include the use of manifest form as required by § 262.20(a) and § 262.21. No other manifest form, shipping document, or information, other than that required by federal law, may be required by the State to travel with the shipment.

(2) Initiate the manifest and designate on the manifest the storage, treatment, or disposal facility to which the waste is to be shipped.

(3) Ensure that all wastes offered for transportation are accompanied by the manifest, except in the case of shipments by rail or water specified in 40 CFR 262.23 (c) and (d) and § 262.20 (e) and (f). The State program shall provide requirements for shipments by rail

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or water equivalent to those under 40 CFR 262.23 (c) and (d) and § 263.20 (e) and (f).

(4) Investigate instances where manifests have not been returned by the owner or operator of the designated facility and report such instances to the State in which the shipment originated.

(g) In the case of interstate shipments for which the manifest has not been returned, the State program must provide for notification to the State in which the facility designated on the manifest is located and to the State in which the shipment may have been delivered (or to EPA in the case of unauthorized States).

(h) The State must follow the Federal manifest format (40 CFR 262.21) and may supplement the format to a limited extent subject to the consistency requirements of the Hazardous Materials Transportation Act (49 U.S.C. 1801 *et seq.*).

(1) A State that supplies the manifest form required by § 262.20(a) may preprint information on the form only as follows:

(i) In Items A and L, a State manifest document number; (EPA Form 8700-22, items A; EPA Form 8700-22A, item L);

(ii) In Items 11 and 28, a hazardous materials (HM) column for use in distinguishing between federally regulated wastes and other materials according to 49 CFR 172.201(a)(1);

(iii) Anywhere on the form, light organizational marks to indicate proper placement of characters or to facilitate data entry;

(iv) Anywhere in the margin of the form or on the back of the form, any information or instructions that do not require generators, transporters, or owners or operators of hazardous waste management facilities to supply additional information;

(v) In Item 16, reference to State laws or regulations following the federal certification; and

(vi) Abbreviations for headings in State optional information spaces (EPA Form 8700-22, Items A-H; and EPA Form 8700-22A, Items L-Q).

(2) In addition to the federally required information, both the State in which the generator is located and the State in which the designated facility

is located may require completion of the following items:

(i) State manifest document number (EPA Form 8700-22, Item A; EPA Form 8700-22A Item L);

(ii) For generators, State generator identification numbers (EPA Form 8700-22, Item B; EPA Form 8700-22A, Item M);

(iii) For transporters, telephone numbers and State transporter identification numbers (EPA Form 8700-22, Items C, D, E and F; EPA Form 8700-22A, Items N, O, P and Q);

(iv) For owners and operators of hazardous waste management facilities, facility telephone number, and State facility identification numbers (EPA Form 8700-22, Items G and H);

(v) Codes associated with particular wastes (EPA Form 8700-22, Item I; EPA Form 8700-22A, Item R);

(vi) Codes associated with particular waste treatment, storage, or disposal methods (EPA Form 8700-22, Item K; EPA Form 8700-22A, Item T); and

(vii) Additional waste description associated with particular hazardous wastes listed on the Manifest. This information is limited to information such as chemical names, constituent percentages, and physical state (EPA Form 8700-22, Item J; EPA Form 8700-22A, Item S).

(3) No State, however, may impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include preprinted information or optional State information items.

(i) Unless otherwise provided in part 271, the State program shall have standards for generators which are at least as stringent as any amendment to 40 CFR Part 262 which is promulgated after July 1, 1984.

[48 FR 14248, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983; 49 FR 10506, Mar. 20, 1984; 49 FR 11180, Mar. 26, 1984; 51 FR 28685, Aug. 8, 1986; 51 FR 33722, Sept. 22, 1986; 56 FR 43705, Sept. 4, 1991]

§ 271.11 Requirements for transporters of hazardous wastes.

(a) The State program must cover all transporters covered by 40 CFR part 263. New transporters must be required to contact the State and obtain an EPA identification number from the